

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02

PLR-144685-12

Date:

January 02, 2013

X =

Y =

Trust =

Beneficiary =

State =

D1 =

D2 =

D3 =

D4 =

D5 =

Tax Years =

Dear :

This responds to a letter dated September 11, 2012, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting inadvertent termination relief pursuant to § 1362(f) of the Internal Revenue Code.

The information submitted states that X was incorporated under the laws of State on D1. X represents that it timely filed an S corporation election with an effective date of D2.

Y, one of X's shareholders, died on D3. On D4, following the administration of Y's estate, Y's estate distributed its shares of X to Trust. During the two years between D4 and D5, Trust was an eligible shareholder by reason of § 1361(c)(2)(A)(iii).

X represents that Trust was a qualified subchapter S trust (QSST) eligible to make an election under § 1361(d)(2) effective D5. However, no such election was filed on behalf of Trust. Therefore, the Trust was not a permissible shareholder, and X's S corporation election terminated on D5.

X represents that the termination was not motivated by tax avoidance or retroactive tax planning. X further represents that from D5, X and its shareholders have filed all returns consistent with X's status as an S corporation. X and its shareholders have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of X as an S corporation.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents, or (B) was terminated under paragraph (2) or (3) of § 1362(d); (2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the ineffectiveness, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such ineffectiveness, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that the termination of X's S corporation on D5 was inadvertent within the meaning of § 1362(f). We further conclude hold that, pursuant to the provisions of § 1362(f), X will be treated as an S corporation from D5 and thereafter provided that, within 90 days of

the date of this letter, the (i) Trust files amended income tax returns for Tax Years consistent with the Trust's QSST election, (ii) Beneficiary files amended income tax returns for Tax Years consistent with the income beneficiary's treatment as a QSST beneficiary described in § 1.1361-1(j)(7), and (iii) Trust files a QSST election effective D5, pursuant to the procedures set forth in § 1.1361-1(j)(6), with the appropriate service center. A copy of this letter should be attached to the QSST election and each amended return described above. Failure to comply with any of the three conditions described above shall render this ruling null and void.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, no opinion is expressed or implied regarding X's eligibility to be an S corporation or Trust's eligibility to be a QSST.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being forwarded to X's authorized representatives.

Sincerely,

Melissa C. Liquerman
Branch Chief, Branch 2
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes